IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Bail Appl..No. 3956 of 2007()

CRIME NO. 235/07 OF KATTAPPANA POLICE STATION

PETITIONER/ACCUSED

JOBY S/O.ANTONY, AGED 32 YEARS,
PUTHEN PURACKAL HOUSE, MATTAKATTA KARA,
IDUKKI DISTRICT.

BY ADV. SRI.A.C.DEVASIA
SRI.T.J.MICHAEL

RESPONDENT/COMPLAINANT:

S.I. OF POLICE, KATTAPPANA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3956 of 2007

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Dated this the 2nd day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. A police party, on receipt of prior information, allegedly proceeded to the spot of occurrence on 8.5.2007. There the petitioner was found to keep in his possession 2 litres of arrack. He abandoned the article and took to his heels. He could not be apprehended. The seizure report and the occurrence report show the name of the petitioner as the person, who ran away from the scene. The case records show that the petitioner was identified by two independent witnesses. The petitioner has not been arrested so far. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. One of the attesters to the seizure mahazar has animus against the petitioner and he has prevailed upon the police to initiate such a false case against the petitioner. This is the crux of the contention raised.

3. The learned Prosecutor opposes the application. All available inputs point to the culpability of the petitioner. In these circumstances the petitioner may be granted anticipatory bail, submit the learned Prosecutor.

4. I find merit in the opposition by the learned Prosecutor. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously.

4. This application is accordingly dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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